

MEETING MINUTES

STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS

January 12, 2006

Present:

Chairman: Harry Dudley

Commissioners: C. Davis, Mackey, Niederhauser, Hannigan, Addington, Palmer and N. Davis

Assistant Attorney General: Susan Cruise

Administrator: Peggy Larson and Administrative Assistant: Judy Bell

Dick McCurdy, Cal Hunziker, Mel Flavel, Walt Tabler: Puget Sound Pilots

Gary Nelson: Port of Grays Harbor

Mike Moore, Luis Kohls: Pacific Merchant Shipping Association

Scott Craig: Crowley Marine

Matthew Walker, Jason Tama, Ron Kinsey, Ken Alger: USCG Sector Seattle

Jeff Shaw: Polar Tankers

Larry Seymour, John Ward, Pat Kelly: pilot applicants

Tom Paul: attorney with LeGros Buchanan & Paul

Del Kelly, Jill Seymour: public

REGULAR MEETING

The regular meeting of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley at 2901 Third Avenue, Seattle, Washington.

An EXECUTIVE SESSION was called from 9:30 a.m. to 10:20 a.m. for purposes of discussing the status of the 2005 Pilot Examination Review Process. In attendance were Chairman Dudley, Commissioners C. Davis, Mackey, Niederhauser, Hannigan, Addington, Palmer and N. Davis; Susan Cruise, Judy Bell and Peggy Larson. Regular session was reconvened by the chairperson immediately following executive session.

Minutes. There being no corrections or additions, the November 10, 2005 and the December 8/12, 2005 Minutes stand approved as written.

Commissioner Hannigan spoke to the following motion he made during the December 8, 2005 Board meeting: *It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that two reviews be the limit allocated to each applicant.* He clarified that the intent of his motion was to allow two appointments in order to continue an applicant's review and that his intent was not to allow a second review. It was moved by Commissioner C. Davis and seconded by Commissioner Palmer that relative to that motion, it was and is the understanding of the Board that the reference to a second review means a second "appointment" to continue a review. The motion carried. It was determined that the Board's formal responses to applicants' reviews will not be released until after February 7, 2006, which is end of the informal review period as indicated in the Policy Statement adopted at the November 10, 2005 Board meeting.

OLD BUSINESS

Pilot's Report of Incident: APL ENGLAND, 9-10-05. The Board has received the written report submitted by Puget Sound Pilot, Captain Stuart Mork. Commissioner Niederhauser submitted written and oral comments regarding his investigation of the incident. The *MIGHTY SERVANT 1* was moored at Todd Shipyard and reportedly caused damage to the fendering system and shore power connection upon the passage of the *APL ENGLAND*. Suction caused the *MIGHTY SERVANT 1* to be drawn away from the berth and the alleged damage to the berth occurred when it came back alongside. In addition, the *MIGHTY SERVANT 1* suffered a broken mooring line from the bow. It was moved by Commissioner C. Davis and seconded by Commissioner Mackey that this matter be declared an "Incident with damage and without pilot error". The motion carried.

Letter of Concern: *KIRSTEN MAERSK*, 11-7-05. This item was deferred in order for Commissioner Hannigan to develop a packet of more information for presentation to the Board.

NEW BUSINESS

Pilot's Report of Marine Safety Occurrence: 12-10-05. Upon boarding the *HANJIN COPENHAGEN* at Pier 37 Seattle, the pilot noted that the master appeared to be intoxicated. He reported it to the vessel agent, VTS and USCG MSO. In addition, it was reported that the Chief Mate and Chief Engineer had been drinking as well. The three were alcohol and drug tested in addition to the pilot. Results confirmed the three crew members positive and the pilot negative. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that this report of a navigational safety concern be filed as a Marine Safety Occurrence and that a letter of commendation be sent to Puget Sound Pilot, Captain Micheal Wood, expressing the Board's appreciation for the professional manner in which he handled the situation. The motion carried.

Pilot's Report of Marine Safety Occurrence: 12-22-05. Upon boarding the *EVER UBERTY* near Ediz Hook, Port Angeles the pilot noted the vessel was experiencing an engine problem. A nearby tug assisted the ship to deeper water and VTS was notified of the engine malfunction. The vessel's engineer successfully repaired and tested the engine before proceeding to Tacoma with a tug escort. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that this report of a navigational safety concern be filed as a Marine Safety Occurrence. The motion carried.

Pilot's Report of Marine Safety Occurrence: 12-31-05. After departing Terminal 18, Berth 4, Seattle the vessel *CP TUI* proceeded stern first into Elliott Bay. At the same time the ferry *SPOKANE* was departing the fuel dock at Pier 15 and came within 150 yards dead ahead of the *CP TUI*. Several attempts by the pilot to contact the ferry went unanswered. After the *CP TUI* had sternway and the engine was stopped, the pilot received a call from the ferry saying they were departing Pier 15. The pilot responded that he intended to keep the ferry on his port side as they both headed north out of the bay. The pilot made an underway call to VTS and was told, "The ferry *SPOKANE* is going to Kingston and I would have told you about the *SPOKANE*, but I knew you were busy." The pilot responded, "I'm never too busy to avoid a collision." It was moved by Commissioner C. Davis and seconded by Commissioner Addington that this report of a near-miss be filed as a Marine Safety Occurrence with a copy to the US Coast Guard. The motion carried. LCDR Jason Tama accepted the report and stated he would look into the matter.

Pilot's Report of Marine Safety Occurrence: 12-20-05. While transiting northbound from Tacoma to Port Angeles the pilot of the *KNUD MAERSK* noted the ferry *WENATCHEE* departing Pier 52 westbound for Bainbridge Island. Radio contact was made and crossing arrangements were discussed when the vessels were approximately 3 miles apart. After a couple of minutes the pilot was not observing the change of course that was expected based on the ferry's agreement to take the ship's stern. As the vessels got closer it became apparent that the ferry was not changing course or speed enough to avoid a close passing. The pilot made a hard to port course change and notified the VTS that it was necessary to enter the separation zone to get out of the way and go around the ferry. The ferry stopped, the ship turned back to starboard and headed north, passing very close to the ferry on its starboard side. A VTS audio recording of the event was played for the Board. Investigations are underway by the Washington State Ferries and US Coast Guard. It was moved by Commissioner C. Davis and seconded by Commissioner Addington that this report of a near-miss be filed as a Marine Safety Occurrence and that a letter of commendation be sent to Puget Sound Pilot, Captain Robichaux, expressing the Board's appreciation for the professional manner in which he handled this situation as well as the other near-miss situation which occurred on 12-31-05. The motion carried.

Request for Approval to Apply for the Puget Sound Pilots Rider Program. In a letter to the Board from Timothy Dawson dated December 25, 2005, he is asking the Board to consider him as an applicant for the Puget Sound Pilots Rider Program. There is no formal rider program at this

time; however, Chair Dudley asked the Trainee Evaluation Committee to discuss this issue, work with PSP, and make a recommendation to the Board as to whether or not anything additional should be done relative to any kind of a rider program.

Miscellaneous Correspondence Review. Notification from Puget Sound Pilots dated 12-14-05 has been sent regarding their change in auditing firms from Schneider & Kobata to Shannon & Associates.

Committee Reports:

Pilot Examination Committee.

- Because the informal exam review period will not expire until February 7, 2006 and some applicants have not completed their initial review, it was moved by Commissioner Hannigan and seconded by Commissioner Addington that it would be inappropriate at this time to release the Board's analysis of the exam reviews it has conducted to date until after the informal review period has expired. The motion carried.
- Those applicants who have properly requested a review and have not had a second appointment to complete that review may schedule one before February 7, 2006, after which time the Board will release the final exam results.
- Receipt of these exam results starts the 30-day clock in which a person may file with the Board a request for a formal review.

Trainee Evaluation Committee.

- Five successful applicants have accepted and entered into training programs.
- Forty-one pilots have completed the "Train the Trainer" course at Pacific Maritime Institute. Thirty-four seven year PS pilots, five additional less than seven year PS pilots and both GH pilots attended the full-day of training.
- New training report forms are being developed for future use after Board approval.
- It was moved by Commissioner Niederhauser and seconded by C. Davis that the training programs for Captains Kelly, Blake, Bujacich, Carlson and Sliker be amended according to recommendations made by the TEC to clarify the intent of the Initial Evaluation Program. The motion carried. These programs were approved by Chairman Dudley on December 12, 2005, and concurred with as amended by the Board today. The issuance of five trainee licenses in December by Chairman Dudley was also concurred with by the Board today.
- A procedure for pilot license upgrade trips which follows current practice was formally proposed. It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that the Board give authority to the TEC to develop specific upgrade trips in accordance with the WAC, the Chairman to approve and authorize the letter, and the Administrator to review and verify the proper completion of the designated trips. Commissioner Niederhauser withdrew the motion, in concurrence with Commissioner Mackey to propose instead, a generic five-step program for license upgrade trips which the Board can pre-approve for the staff to administer.
- It was moved by Commissioner Niederhauser and seconded by Commissioner Palmer to concur with the Chairman's previous approval of Captain Vic Engstrom's license upgrade program. The motion carried.
- It was moved by Commissioner Niederhauser and seconded by Commissioner N. Davis to empower Chairman Dudley to approve a license upgrade program as drafted by the TEC for Captain Gary Hurt. The motion carried.
- It was moved by Commissioner Niederhauser and seconded by Commissioner Mackey that 34 PS pilots and 1 GH pilot be formally designated as training pilots. The motion carried.

Legal Update. Susan Cruise provided copies of proposed amendments to WAC 363-116-078(10) regarding stipend payments. The intent is to eliminate the Board's participation in directing how the stipend funds would be paid and distributed so that PSP would perform that task, and it addresses the status of the funds before a trainee is entitled to receive them. It was moved by Commissioner

Niederhauser and seconded by Commissioner Palmer that BPC staff coordinate with PSP and the Operators to finalize the proposed WAC language for presentation to OFM; and once approved, hold a special Board meeting to direct the filing of this language with the Code Reviser under emergency provisions to take effect immediately. The motion carried. It is unclear at this time whether or not stipend payments can be paid retroactively.

According to WAC 363-116-300 an additional \$10 fee per trainee is to be charged for each trainee "receiving a stipend", which PSP has been doing. Since no trainees are yet "receiving a stipend", PSP has asked the Board for direction concerning the continuation of these charges. Commissioner Addington stated that the purpose of the WAC is to fund the trainees while they're in training and since they've been in training since mid-December it is appropriate to continue collecting the training surcharge. It was moved by Commissioner Addington and seconded by Commissioner Mackey that PSP is correct to continue collecting the surcharge and is directed to do so by this Board. The motion carried.

Administrator's Report. Word came from Governor Gregoire's office earlier this week that Commissioner Charles Davis has been reappointed to another four-year term through December 26, 2009.

Pilots' Activity Reports. Captain Richard McCurdy, President, Puget Sound Pilots, reported that there were 676 jobs in December compared to a 618 average for the past 3 Decembers ~ about 8265 for the year compared to 7289 for the previous three-year average; Captain Fosse is out on medical leave; and PS Pilot Cal Hunziker made a presentation regarding his and Captain Del Mackenzie's participation in a project regarding the Port of Tacoma's plans for the Pierce County Terminal expansion in the Blair Waterway.

It has come to the attention of the Board that US Senator Maria Cantwell is considering the introduction of federal legislation that could restrict the use of the eastern route passing north of Vendovi Island and between Saddlebag and Huckleberry Islands and require using the western route through Rosario Strait and Guemes Channel, which would restrict BP vessels transiting between the Cherry Point/Ferndale refinery dock and those docks located at March Point, Anacortes. It was moved by Commissioner Hannigan and seconded by Commissioner Mackey that Chairman Dudley contact BP (Captain Craig Lee) to learn more about a legal settlement that may compromise a pilot's ability to choose routes relative to Guemes Channel and Saddlebags. The motion carried.

Gary Nelson, Executive Director of the Port of Grays Harbor, reported that there were 58 arrivals for 2005, which is about 30% more than projected; the Chehalis is out for repair and inspections; and Captain D'Angelo will be out of the district for a couple of weeks in January, so if necessary and pursuant to the WAC, Captain Cooke may need an emergency variance to pilot certain vessels.

Public Comments. Captain Mike Moore, PMSA, briefed the Board on some of the issues resulting as the Oil Spill Advisory Committee's requirements unfold, as well as other points of interest concerning PMSA issues.

Commissioner Comments. Commissioner Hannigan reported on his and Captain Niederhauser's recent participation in the annual Governor's Conference in Olympia.

Confirmation of Next Regular Meeting Date. The next regular meeting is scheduled for February 9, 2006, at 1:30 p.m. in the Fourth Floor Rainier Conference Room, at 2901 Third Avenue, Seattle. A Closed Session of the Board was set for the morning of February 9th, with the start time to be determined later depending upon the volume of exam reviews to be considered by the Board. The Exam Committee will meet the day before on February 8th to preview any applicants' exam reviews and determine the workload for the morning of February 9th.

Review of Pilot Physical Examination Reports. After reviewing the physicians' reports it was moved by Commissioner C. Davis and seconded by Commissioner Addington that the annual physical examination reports for Captains J.E. Arnold, L.P. Emerson, C.J. Engstrom, A.L. Fosse, J.B. Harris, D.G. Mackenzie, A.J. Newman, J.S. Niederhauser, E.M. vonBrandenfels and N.A. Werner be accepted for license renewal. The motion carried.

It was moved by Commissioner C. Davis and seconded by Commissioner Addington that the Board concur with Chairman Dudley's previous interim acceptance of the pilot trainee physical examination reports for Captains Michael Blake, Jack Bujacich, Ivan Carlson, Patrick Kelly and William Sliker. The motion carried.

It was moved by Commissioner Addington and seconded by Commissioner C. Davis that the Board concur with the Administrator's previous action on December 29, 2005, to notify Captain A.L. Fosse that due to a medical condition reported by Board-Designated Physician, Jon P. Younger M.D., he be declared unfit for duty and his license be put in inactive status. The motion carried.

The Chairman adjourned the regular session Board meeting at 2:10 p.m.

Respectfully submitted,

Peggy Larson, Administrator

Harry H. Dudley, Chairman

Charles M. Davis, Vice Chairman

Commissioner Oliver E. Mackey

Commissioner John S. Niederhauser

Commissioner Patrick M. Hannigan

Commissioner Vincent Addington

Absent
Commissioner Craig W. Lee

Commissioner Andrew C. Palmer

Commissioner Norman W. Davis